



BUREAU OF CANNABIS CONTROL

CALIFORNIA

SUMMARY OF PUBLIC COMMENT REGARDING MEDICAL CANNABIS REGULATION AND SAFETY ACT PROPOSED REGULATIONS

Earlier this spring, the Department of Consumer Affairs' Bureau of Cannabis Control (Bureau), the Department of Food and Agriculture, and the Department of Public Health released draft regulations for the Medical Cannabis Regulation and Safety Act of 2015. These licensing authorities held several public hearings to accept verbal and written comments regarding the draft regulations. The licensing authorities had planned to move forward with a separate draft regulatory package for the implementation of Proposition 64: The Adult Use of Marijuana Act of 2016. However, in late June, the Legislature passed and the Governor signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA, also known as Senate Bill 94), which created one regulatory system for both medicinal and adult-use cannabis. As a result, the licensing authorities will withdraw the proposed medical cannabis regulations noticed for public comment on April 28, 2017, and May 5, 2017.

The three cannabis licensing authorities are in the process of drafting emergency regulations based on the new law for the commercial medicinal and adult-use cannabis industries. The licensing authorities will consider the public comments received on the draft medical cannabis regulations and use the feedback to inform the draft emergency regulations. The emergency regulations are expected to be published in November 2017.

This document is intended to provide stakeholders with a high-level summary of the comments received on the proposed medical cannabis regulations published in April and May 2017 and an initial response to those comments by the Bureau. The Bureau appreciates the thoughtful and timely responses made by stakeholders. Please note this is not a comprehensive list of regulation topics. The Bureau will consider every comment received in a continued effort to create effective and reasonable regulations for medicinal and adult-use cannabis activity.



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PUBLIC COMMENT	BUREAU RESPONSE
CREATION OF ADDITIONAL LICENSE TYPES	
The Bureau should consider creating specialty or limited business licenses, such as delivery only and special event permits.	<i>Both are allowed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). Business and Professions Code section 26070 allows a retailer to conduct sales exclusively by delivery. Business and Professions Code section 26200 permits the issuance of a state temporary event license at a county fair or district agricultural association event in local jurisdictions that authorize such events.</i>
HOLDING MEDICINAL & ADULT-USE CANNABIS LICENSES	
The proposed regulations should permit an applicant to apply for and hold both an adult-use cannabis license and a medicinal cannabis license.	<i>The proposed regulations only addressed medicinal licensing under the Medical Cannabis Regulation and Safety Act (MCRSA). The current law allows a person to hold separate licenses for both medicinal and adult-use cannabis activity.</i>
LIABILITY BETWEEN LICENSEES	
The regulations should specify which party in the supply chain of transactions (manufacturer, transporter, or dispensary) bears the risk of loss and how much liability should attach.	<i>The Bureau has determined that decisions regarding the designation of risk of loss are best left for the parties to negotiate among themselves, as with any other commercial industry.</i>
MCRSA PROPOSED REGULATIONS § 5004 – OWNER	
The regulatory definition of “owner” needs further clarification, including making a clear distinction between owner and employees, and removing from owner status an individual participating in the direction, control, or management of the licensed business.	<i>Business and Profession Code section 26001 includes as an owner an individual who will be participating in the direction, control, or management of the person/entity applying for a license. The Bureau does not have the authority to change any requirements contained in the law. The Bureau will continue to collaborate with the California Department of Public Health and the California Department of Food and Agriculture regarding the provisions related to owner in the regulations.</i>
Nonprofit ownership should be lowered to 5 percent interest to keep consistent with other business formation types.	<i>Business and Professions Code section 26001 includes as an owner a person/entity with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee. The Bureau does not have the authority to change any requirements contained in the law.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5006 – APPLICATION REQUIREMENTS	
Applicants should not have to provide so much information to the Bureau as they have already submitted much of this information to, and been vetted by, the local jurisdiction.	<i>The Bureau is only requesting information necessary to qualify the owner and premises for licensure. Each local jurisdiction will have its own process and required documentation, which may not include all the information relevant to a state license application.</i>
The Bureau should institute a help hotline to help applicants complete and submit their applications.	<i>The Bureau will have a call center available to help answer applicant's questions, as well as materials on its website with information to assist applicants, licensees, and the public.</i>
The regulations should provide applicants a streamlined process for converting a business from a not-for-profit business to a for-profit business.	<i>The MAUCRSA does not mandate any particular business structure for licensees. Regulating the process for changes to business structure is not within the Bureau's authority.</i>
The 600-foot buffer zone is too large for urban areas. The 600-foot buffer zone should be increased to better protect children. The Bureau should also include a setback for residential housing.	<i>Business and Professions Code section 26054 indicates that licensed premises shall not be located within a 600-foot radius of a school, daycare center, or youth center unless a licensing authority or local jurisdiction specifies a different radius.</i>
The regulation that requires a business to enter into a labor agreement should be removed.	<i>Business and Professions Code section 26051.5 requires an applicant with 20 or more employees to enter into a labor peace agreement. The Bureau does not have the authority to change any requirements contained in the law.</i>
MCRSA PROPOSED REGULATIONS § 5010 & § 5012 – PREMISES & PREMISES DIAGRAMS	
The regulations should permit shared premises, including multiple businesses of same and different license types, as well as permit multilevel or vertical stacking of the designated premises.	<i>The Bureau is developing regulations related to colocation of licensees on premises.</i>
A premises diagram should only be required for the areas designated for use by the cannabis business seeking licensure.	<i>Business and Professions Code section 26051.5 and the Bureau's proposed regulation only require the premises diagram for the specific areas where the licensed commercial cannabis activity will occur.</i>
MCRSA PROPOSED REGULATIONS § 5016 & § 5108 – BOND & INSURANCE REQUIREMENTS	
The regulations should not require a licensee to obtain a business bond because they are too difficult to obtain or do not exist.	<i>Business and Professions Code section 26051.5 requires a bond to cover the costs of destruction of cannabis products. Business and Professions Code section 26070 requires a minimum level of bond and insurance. The Bureau does not have the authority to change any requirements contained in the law.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5018 – CONTINUED OPERATIONS	
The regulations should permit all businesses currently operating to continue operations while an application is pending to avoid disruption in the business and supply of medicine to the patients.	<i>The proposed regulation for continued operations was based on a provision in the MCRSA, which has been repealed. Business and Professions Code section 26050.1 grants the Bureau the ability to issue temporary licenses. The Bureau is developing regulations related to temporary licenses.</i>
MCRSA PROPOSED REGULATIONS § 5020 THROUGH § 5024 – PRIORITY LICENSING	
The Bureau should reduce the requirements in section 5022 of the proposed medical regulations. One's priority review status should be based on an individual's initial business start date of activity and not based on the "business entities" start date of operations. The good standing requirement should be removed.	<i>The proposed regulations were based on the MCRSA, which has been repealed. Now Business and Professions Code section 26054.2 requires that priority in issuing licenses be given to applicants that operated in compliance with the Compassionate Use Act before September 1, 2016. The Bureau, in collaboration with the California Department of Public Health and the California Department of Food and Agriculture, is developing proposed regulations based on this new requirement.</i>
MCRSA PROPOSED REGULATIONS § 5039 – NOTIFICATION OF CHANGE	
The Bureau should allow licenses to be transferrable.	<i>By law, each owner must meet certain requirements to hold a license, therefore, a new application is needed. The Bureau is evaluating if a notification, rather than a new application, is appropriate when changes in persons with a financial interest in the business do not include a new owner, who is required to submit fingerprints.</i>
The 30-day business closure triggering a licensure to be voided is too short. The regulation should include exclusions for reasonable closures such as construction, damage due to fire, or vandalism.	<i>The Bureau is considering whether a longer period of time than 30 days should be applicable before surrender in situations such as fire, construction, or other damage that may require extensive repair.</i>
MCRSA PROPOSED REGULATIONS § 5056 – RECORD RETENTION	
Cannabis business records should be kept both in hard copy and electronically for seven years.	<i>Business and Professions Code section 26160 requires that all records pertaining to commercial cannabis activity be maintained for a minimum of seven years. In order to prevent unnecessary costs, the Bureau is allowing for records to be kept electronically as long as physical copies of records are able to be produced when necessary. A licensee may choose to keep records in both formats.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5056 – RECORD RETENTION (CONT.)	
Records kept on-site should be limited to only the immediately preceding six months.	<i>Business and Professions Code section 26160 requires that all records pertaining to commercial cannabis activity be maintained for a minimum of seven years. The proposed regulation requires the licensee to produce the records at the licensed premises as requested by the Bureau.</i>
Proposed regulations should change the inventory reconciliation period to once a month and increase the amount of inventory discrepancy that triggers reporting.	<i>The Bureau is evaluating the appropriate time between each inventory reconciliation and the amount of discrepancy that requires notification.</i>
MCRSA PROPOSED REGULATIONS § 5066 – LICENSEE EMPLOYEE BADGE REQUIREMENT	
Employee identification badges should not include employee first and last names. For security purposes, they should only be required to contain first name and employer business license numbers.	<i>The Bureau is evaluating if there is a system that allows for identification of employees without utilizing the last name on badges.</i>
MCRSA PROPOSED REGULATIONS § 5068 – VIDEO SURVEILLANCE SYSTEM	
Cameras should not be required to cover 100 percent of the premises. The number of cameras should be based on the size of the property.	<i>There is no requirement that the entire premises be monitored by surveillance cameras, nor is there a specific number of cameras required. The proposed regulations specify which areas of the premises must be monitored by surveillance cameras.</i>
Surveillance recordings should be kept for 90 days, not 30 days.	<i>A license may choose to keep recordings for periods longer than those required by the Bureau.</i>
Surveillance standards and requirements should be based on geography. The more dangerous the area, the more safety and surveillance required.	<i>The regulations created by the Bureau are intended to provide a baseline for commercial cannabis activity within the state. Local jurisdictions have the authority to create their own requirements that are specific to the needs of that community.</i>
MCRSA PROPOSED REGULATIONS § 5070 – SECURITY PERSONNEL	
Security guards should be left as a business decision or local jurisdictional decision and only should be required for retailers.	<i>The Bureau is evaluating whether the security guard requirement should only be applicable to retailers.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5074 – ALARM SYSTEM	
Many alarm companies are federally licensed and will not do business with the cannabis industry. The Bureau should create and issue cannabis alarm company licenses.	<i>Alarm companies are regulated by the Bureau of Security and Investigative Services under the Department of Consumer Affairs.</i>
MCRSA PROPOSED REGULATIONS § 5080 – CANNABIS-WASTE MANAGEMENT	
Requiring the licensee to store the waste, even for a short period of time, is an undue logistical burden because some retailers are so small they may not have the available space to store the waste in advance of transfer. Holding cannabis for 72 hours is too long.	<i>The Bureau, in collaboration with the California Department of Public Health and the California Department of Food and Agriculture, is evaluating the requirements for waste management and disposal while conducting additional research to determine the best methods to manage waste disposal.</i>
There is no need for the destruction of cannabis waste to be recorded on video cameras.	<i>The Bureau, in collaboration with the California Department of Public Health and the California Department of Food and Agriculture, is evaluating this requirement.</i>
Proposed regulations should better define “cannabis waste” by specifying unusable and unrecognizable.	<i>The Bureau, in collaboration with the California Department of Public Health and the California Department of Food and Agriculture, is considering additional language to further clarify this requirement.</i>
DISTRIBUTORS	
The Bureau should remove the distributor license or permit small businesses to self-distribute.	<i>The distributor license is required by Business and Professions Code section 26050. The Bureau does not have the authority to change any requirements contained in the law. The Bureau is considering an additional distributor license that is restricted to only transportation activities.</i>
Distributors should be held to the same standards as other licensees.	<i>Where applicable, distributors are expected to be held to the same standards as other licensees.</i>
MCRSA PROPOSED REGULATIONS § 5082 – DISTRIBUTOR TAKING TITLE BEFORE MANUFACTURING	
Distributors should be required to take title of product.	<i>Business and Professions Code section 26110, subdivision (h), specifically states that a licensee is not required to sell cannabis goods to a licensed distributor. The Bureau does not have the authority to change any requirements contained in the law.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5096 – NON-MEDICAL-CANNABIS DISTRIBUTION	
Distributors should be able to store and distribute non-cannabis-related products.	<i>The Bureau is evaluating the specific restrictions regarding licensees engaging in other activities.</i>
MCRSA PROPOSED REGULATIONS § 5124 – TRANSPORTATION REQUIREMENTS	
If a licensee utilizes an armored car to transport cannabis product, they should not be required to have the product, locked inside the vehicle in the regulatory-described lock box.	<i>The Bureau is evaluating the appropriate security measures when an armored car is used.</i>
The Bureau should consider permitting additional modes of transportation other than vehicles over the roadway. Specifically, bicycles should be permitted provided they use a lock box that is compliant with the Bureau's security regulations.	<i>Business and Professions Code section 26070 requires all vehicles transporting cannabis and cannabis products for hire shall be required to have a valid motor carrier permit. Due to the express language in the law, the Bureau is determining the range of vehicles that can be issued a motor carrier permit.</i>
MCRSA PROPOSED REGULATIONS § 5138 – SHIPPING MANIFEST	
The shipping manifest should not have any information describing the planned route time, routing, or location.	<i>The Bureau is evaluating the required contents of the shipping manifest.</i>
RETAILERS (FORMERLY DISPENSARIES)	
The regulations should permit testing to be done by dispensaries to keep down the cost to the consumer.	<i>Business and Professions Code section 26100 requires that testing only be conducted by a licensed testing laboratory, and Business and Professions Code section 26053 prohibits a person from holding both a testing laboratory license and any other cannabis license type. The Bureau does not have the authority to change any requirements contained in the law.</i>
The regulations should permit the purchasing age to be 18 and over and permit amounts greater than 8 ounces.	<i>Business and Professions Code section 26140 sets forth the age and access limitations. Adult-use cannabis goods may only be sold to persons 21 years or older, and medicinal cannabis may be sold to persons over 18 years of age who possess a valid physician's recommendation. The Bureau does not have the authority to change any requirements contained in the law. The Bureau is evaluating the purchase amounts to ensure consistency with possession laws.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
RETAILERS (FORMERLY DISPENSARIES) (CONT.)	
The Bureau should allow retailers to sell non-cannabis goods.	<i>Business and Profession Code section 26054 prohibits a licensee from also selling tobacco or alcohol on the licensed premises. However, there is no other prohibition in the law or proposed regulations that specifically prohibits a licensee from selling other products.</i>
The Bureau should <i>not</i> allow retailers to sell non-cannabis goods.	<i>Business and Profession Code section 26200 allows a local jurisdiction to authorize the smoking, vaporizing, and ingestion of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if certain conditions are met.</i>
The regulations should eliminate retailers entirely and facilitate patients contracting with farmers directly.	<i>Business and Professions Code section 26050 creates a retailer license. The Bureau does not have the authority to change any requirements contained in the law.</i>
MCRSA PROPOSED REGULATIONS § 5094 & § 5181 – PACKAGING & LABELING	
The regulations should have strict labeling guidelines for accuracy.	<i>Business and Professions Code section 26120 describes the specific requirements for the labeling of cannabis goods. Further rules for labeling are being developed by the California Department of Public Health.</i>
Retailers should be able to place more specific and/or helpful information above the Bureau's minimum labeling requirement. Labeling type font should be no smaller than 1/16th of an inch.	<i>There is no restriction on providing additional information beyond what is required by the statutes and regulations. The Bureau and other licensing agencies are evaluating the requirements for specific font sizes of text found on the packaging of cannabis goods.</i>
Compassionate use programs should be permitted to repackage products for their clients.	<i>Under the proposed system, retailers will not be allowed to package any cannabis goods. Packaging for cannabis-manufactured products can only be conducted by the manufacturer, and cannabis can only be packaged by the cultivator or distributor. This requirement is designed to ensure that the label containing laboratory testing results of the product are accurate up to the point the consumer receives the product.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5094 & § 5181 – PACKAGING & LABELING (CONT.)	
The Bureau should allow a dispensary to sell an open package to the patient who inspected the product.	<i>The sale of any cannabis product that has been adulterated is prohibited by law. Once a product is opened, it may be impossible to determine whether or not the product has been adulterated after opening and may not be sold.</i>
MCRSA PROPOSED REGULATIONS § 5148 & § 5151 – ACCESS TO RETAILER PREMISES	
The Bureau should allow nonpatients into the dispensary, such as family members, vendors, and contractors.	<i>The proposed regulations allow for vendors, contractors, and caregivers of patients to enter the retailer premises.</i>
MCRSA PROPOSED REGULATIONS § 5157 – HOURS OF OPERATION	
Proposed regulations should allow the local jurisdiction to dictate the hours of operations or the Bureau should expand the hours of operations.	<i>The Bureau's regulations set the baseline for the limits on hours. Local jurisdictions still could further limit hours of operation. The Bureau is considering increasing the operating hours for retail cannabis licensees.</i>
MCRSA PROPOSED REGULATIONS § 5235 – LAW ENFORCEMENT NOTIFICATION	
The Bureau should allow for a longer than 24-hour notice period of reporting a suspected theft.	<i>Business and Professions Code section 26070, subdivision (k), requires a retailer to notify the licensing authority and law enforcement authorities within 24-hours after discovering a suspected theft. The Bureau does not have the authority to change any requirements contained in the law.</i>
MCRSA PROPOSED REGULATIONS § 5068 – VIDEO SURVEILLANCE SYSTEM (RETAILER SPECIFIC)	
Video cameras should not film the point of sale due to confidentiality of the patient.	<i>The circumstances under which the Bureau will or will not share any surveillance video in its possession with any person or entity will be determined by applicable law. The Bureau does not have the authority to change any requirements contained in the law.</i>
Proposed regulations should permit the local jurisdiction to specify a dispensary's surveillance regulations.	<i>The Bureau's regulations will set the minimum surveillance requirements applicable to all licensees. Local governments may adopt additional requirements that are specific to the local area's needs.</i>
The Bureau should change the pixel rate of the required surveillance videos to 1280 x 720.	<i>The Bureau is evaluating the requirements for surveillance camera resolution.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5163 – CANNABIS GOODS DISPLAY	
The Bureau should not require all goods that are displayed be stored outside of the retail area after business hours.	<i>All cannabis goods are required to be stored in a secure location. Requiring display products to be placed in a secure room or safe when the retailer is not open for business reduces the risk of the cannabis goods being stolen and diverted, which increases public safety.</i>
The regulations should permit patients to smell the product before they purchase it.	<i>The Bureau's proposed regulation permits cannabis and cannabis products to be removed from their packaging and placed in containers to be used specifically for customer inspection.</i>
The Bureau should allow the amount of displayed goods to exceed the average sales for one day.	<i>The Bureau is evaluating the amount of cannabis goods that is appropriate for a retailer to keep in the retail area during business hours.</i>
MCRSA PROPOSED REGULATIONS § 5178 – CUSTOMER SAMPLES	
The regulations should permit free samples to be given to patients and employees as training tools.	<i>The Bureau is evaluating whether to allow samples and the possible methods by which samples could be provided.</i>
MCRSA PROPOSED REGULATIONS § 5184 – EXIT PACKAGING	
The Bureau should not require an additional resealable exit packaging due to additional costs for the dispensary and patient.	<i>Business and Professions Code section 26070.1 requires cannabis and cannabis products be placed in an opaque bag before leaving a retailer. The Bureau does not have the authority to change the requirement for an opaque exit bag contained in the law; however, the law does not require a resealable exit bag. The Bureau is evaluating the use of recycled or customer-provided opaque packages.</i>
MCRSA PROPOSED REGULATIONS § 5187 – DELIVERY	
The regulations should include a mobile dispensary option with mobile retailers required to follow the same rules and regulations as the traditional brick-and-mortar dispensary.	<i>Delivery-only retail licensees will be required to meet all of the same application, premise, product inventory, and record retention regulations as a traditional brick-and-mortar dispensary.</i>
The regulations should permit retailers to utilize third-party couriers or contractors for delivery.	<i>Business and Professions Code section 26090 requires that delivery be performed by an employee of a licensed retailer, microbusiness, or nonprofit.</i>

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PUBLIC COMMENT	BUREAU RESPONSE
MCRSA PROPOSED REGULATIONS § 5193 – METHODS OF DELIVERY	
Proposed regulations should permit any vehicle with a secure locking area to be used for delivery.	<i>The proposed regulations permit use of any enclosed vehicle for delivery.</i>
The Bureau should not require expensive GPS systems to be placed in delivery vehicles.	<i>The Bureau has determined that tracking the location of delivery vehicles is necessary. Any GPS system that meets the requirement of the regulations will be accepted.</i>
MCRSA PROPOSED REGULATIONS § 5193 – METHODS OF DELIVERY (CONT.)	
The Bureau should require vehicles used by a licensed dispensary to be subject to inspection at any time by local or state law enforcement.	<i>The Bureau has the authority to regulate licenses. State and local law enforcement has the ability to inspect vehicles carrying cannabis in the same way they inspect vehicles not carrying cannabis.</i>
MCRSA PROPOSED REGULATIONS § 5196 – DELIVERY HOURS OF OPERATION	
The regulations should ban late night delivery as the risk of theft or violence is increased.	<i>The Bureau is evaluating the delivery times.</i>
MCRSA PROPOSED REGULATIONS § 5199 – CANNABIS GOODS CARRIED DURING DELIVERY	
The Bureau should allow delivery drivers to carry a larger amount of goods.	<i>The Bureau is evaluating what an appropriate amount of cannabis product a delivery driver is allowed to carry.</i>
MCRSA PROPOSED REGULATIONS § 5208 – DELIVERY ROUTE	
The Bureau should allow delivery drivers to take the safest route to a drop-off location other than the most direct.	<i>The Bureau is considering clarifying the regulatory language to encourage the use of safest routes.</i>
FEES	
Fees should be based on a sliding scale of total net revenue.	<i>Business and Professions Code section 26180 requires that fees are set on a scaled basis based on the size of the business. The Bureau is examining what method is most appropriate to determine the scaled fee, including total net revenue.</i>